

[SEE SIGNATURE PAGES FOR COUNSEL NAMES]

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

EDWARDS LIFESCIENCES LLC and
ENDOGAD RESEARCH PTY LIMITED,

Plaintiffs,

v.

COOK INCORPORATED and W.L.
GORE & ASSOCIATES, INC.,

Defendants.

No. C 03-3817 JSW (WDB)

**SECOND ORDER AND
STIPULATION REGARDING
ISSUANCE OF COMMISSION FOR
TAKING DEPOSITIONS IN
AUSTRALIA**

Judge Jeffrey S. White
Magistrate Judge Wayne D. Brazil

HOWARD
RICE
NEMEROVSKI
CANADY
FALK
& RABKIN

A Professional Corporation

Plaintiffs, Edwards Lifesciences LLC and EndoGAD Research Pty Limited, and Defendants, Cook Incorporated and W.L. Gore & Associates, Inc., by and through their undersigned counsel, hereby submit this Second Joint Stipulation Regarding Issuance of Commission for Taking Depositions in Australia. The stipulation is based on the following recitals.

WHEREAS, on May 9, 2007, the Court entered its Order Following Hearing on Plaintiffs' Motion to Compel Defendant Cook; Defendant Cook's Motion to Compel; and Defendant Gore's Motion to Compel (*see* Docket #473);

WHEREAS, the Order states, among other things, that Plaintiffs must offer Dr. White and Dr. Yu for deposition (*see* Order at 2:20-24);

WHEREAS, Dr. White and Dr. Yu are Australian nationals who live and work in Australia;

WHEREAS, the depositions of Dr. White and Dr. Yu were taken on June 27, 28, and 29 in Sydney, Australia, pursuant to the Court's Order, and their continued depositions are scheduled for August 23 and 24 in Sydney, Australia;

WHEREAS, during the trip to Australia for the continued depositions of Dr. White and Dr. Yu, the parties have scheduled depositions of five other Australian nationals: Mr. Crispin Marsh (August 20), Dr. Michael Stephen (August 21), Dr. James May (August 22), Dr. Michael Lawrence-Brown (August 27), and Mr. David Hartley (August 28);

WHEREAS, Dr. White, Dr. Yu, Mr. Marsh, Dr. Stephen, Dr. May, Dr. Lawrence-Brown, and Mr. Hartley have agreed to voluntarily appear for depositions in Australia;

WHEREAS, the parties request that the Court issue a commission pursuant to FED. R. CIV. P. 28(b) for purposes of taking these depositions in Australia;

NOW, THEREFORE, the parties jointly stipulate to the issuance of a commission by the Court – directed to the attorneys representing the parties and the court reporter retained to attend and transcribe the depositions – to administer the oath and take testimony in Australia from these witnesses, pursuant to FED. R. CIV. P. 28(b).

Dated: August 7, 2007

By: s/ Lisa A. Schneider

David T. Pritikin
Hugh A. Abrams
Richard T. McCaulley
SIDLEY AUSTIN LLP
One S. Dearborn Street
Chicago, Illinois 60603

Russell L. Johnson
Matthew T. Powers
Carrie W. Cotter (Pro Hac Vice)
SIDLEY AUSTIN LLP
555 California Street, Suite 5000
San Francisco, California 94104-1715

Attorneys for Plaintiffs,
EDWARDS LIFESCIENCES LLC and
ENDOGAD RESEARCH PTY LIMITED

Dated: August 7, 2007

By: s/ Jeffry M. Nichols

Richard A. Kaplan
Thomas J. Filarski

Bradley G. Lane
Jeffry M. Nichols
Julie L. Leichtman
BRINKS HOFER GILSON & LIONE
NBC Tower, Suite 3600
455 North Cityfront Plaza Drive
Chicago, Illinois 60611-5599

Dirk M. Schenkkan (No. 72533)
Jeffrey E. Faucette (No. 193066)
Jason S. Takenouchi (No. 234835)
HOWARD RICE NEMEROVSKI CANADY
FALK & RABKIN
A Professional Corporation
Three Embarcadero Center, 7th Floor
San Francisco, California 94111-4024

Attorneys for Defendant,
COOK INCORPORATED

Dated: August 7, 2007

By: s/ Gerard A. Haddad

David H. Pfeffer
Christopher K. Hu
Gerard A. Haddad
Jennifer Bianrosa
MORGAN & FINNEGAN, L.L.P.
3 World Financial Center
New York, NY 10281-2101

Mark J. Linderman
John Querio
SONNENSCHN NATH & ROSENTHAL
525 Market Street, 26th Floor
San Francisco, CA 94105

Attorneys for Defendant,
W.L. GORE & ASSOCIATES, INC.

I, Jeffry M. Nichols, am the ECF User whose ID and password are being used to file this
SECOND [PROPOSED] ORDER AND STIPULATION REGARDING ISSUANCE OF
COMMISSION FOR TAKING DEPOSITIONS IN AUSTRALIA. In compliance with General
Order 45, X.B., I hereby attest that Lisa A. Schneider and Gerard A. Haddad have concurred in
this filing.

Dated: August 7, 2007

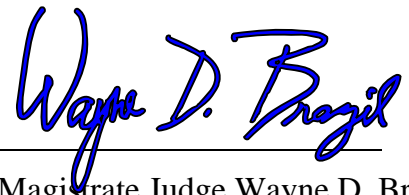
By: s/ Jeffry M. Nichols

PURSUANT TO STIPULATION AND FED. R. CIV. P. 28(B), IT IS HEREBY ORDERED that the attorneys representing the parties and/or the court reporter retained to attend and transcribe the depositions of Dr. Geoffrey White, Dr. Weiyun Yu, Mr. Crispin Marsh, Dr. Michael Stephen, Dr. James May, Dr. Michael Lawrence-Brown, and Mr. David Hartley are commissioned to administer the oath and take testimony from the witnesses in Australia. This commission applies to the taking of these depositions in Australia even if one or more of them are rescheduled to an alternative date.

IT IS SO ORDERED:

August 9, 2007

Date



Magistrate Judge Wayne D. Brazil

HOWARD
RICE
NEMEROVSKI
CANADY
FALK
& RABKIN

A Professional Corporation